

## STILLWATER COUNTY COMMISSIONERS MINUTES

**Notice:** These minutes reflect the proceedings of the Board of County Commissioners. The official minutes are on file with the Clerk and Recorder (MCA 7-4-2611(2)(b)).

### REGULAR MEETING SEPTEMBER 29, 2015

**Present:** Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members; Lori Dobitz, Administrative Assistant; Jerry Friend, Treasurer; Carol Arkell, DES/Fire Warden; Clifford Brophy, Sheriff; Coralee Hicks, Citizen; and Rick Hanners, Stillwater County News.

**Public Comments:** Public Comment on matters within the Commissioners jurisdiction pursuant to §2-3-103, MCA, public comments will be accepted on any public matter that is not scheduled on the Agenda. None were heard.

**Minutes Approval:** Commissioner **MOVED** to approve the minutes of the public hearing of August 13, 2015, and the regular agenda meeting of August 18, 2015, as presented. Commissioner **SECONDED.** Motion passed unanimously

#### **Special Issues - Reports**

1. Stillwater River Road - Rockslide update - Commissioner Dell said the Commission is preparing a request for proposal to obtain a cost analysis and a recommended fix for the rockslide on the Stillwater River Road.

2. 2015 Fire Season - Current status of fire conditions and/or fire restrictions within the county. Action will be taken if conditions warrant. Carol Arkell, Fire Warden, reported that she learned in the weekly fire conference call that surrounding counties will continue to shut-down their burn permit system and some are remaining Stage 1 Fire Restrictions. It is her recommendation to keep the burn permit system shut down for another week. The Commission concurred. She reported rain is in the forecast for the week-end and we will take another look at the conditions next week to see if there is improvement.

**Planning:** Columbus Airport - Commissioner Davey **MOVED** to approve Reimbursement No. 8 for the Master Plan/Airport Layout Plan in the amount of \$9,996 to Morrison-Mairele for engineering efforts on the master plan. Commissioner Dell **SECONDED.** Motion passed unanimously.

**Facilities:** Commissioner Dell **MOVED** to approve a construction proposal in the amount of \$11,695 for a new wireless nurse call system in the Meadowlark Assisted Living Facility as

recommended by Jerry Bokma, Facilities Supervisor. Commissioner Davey **SECONDED**. Motion passed unanimously.

**Road and Bridge:** MT Dept. of Commerce TSEP - Commissioner Davey **MOVED** to approve contract #MT-TSEP-PL-17-882 Planning Grant in the amount of \$15,000 to complete Preliminary Engineering Report (PER) for Bridge Inventory and Evaluation. Commissioner Dell **SECONDED**. Motion passed unanimously. The county will match \$15,000 of grant for a total of \$30,000 for the PER. Commissioner Dell stated the county has replaced twelve bridges using the TSEP program since its inception in 2003.

### **Consent Agenda**

Solid Waste - Lien Waiver in regards to the Adams High Ground Subdivision, Lot 3

**File Items** Human Resources - New Hire - Joshua Boyce, Communication Officer, Sheriff's Office, effective September 16, 2015.

Commissioner Dell **MOVED** to approve the consent agenda and place the file items to file. Commissioner Davey **SECONDED**. Motion passed unanimously.

### **Public Hearing**

**Info:** Commissioner Dell reminded those present that a Public Hearing will be held at 11:00 am on the Floodplain Regulations; and a Public Hearing will be held at 1:30 pm on the South Grove Creek Road Petition.

**Meeting Adjourned:** Hearing no further business, Commissioner Shupak adjourned the meeting at 9:11 a.m.

## **PUBLIC HEARING SEPTEMBER 29, 2015 - 11:00 AM FLOOD PLAIN REGULATIONS**

**Present:** Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members; Lori Dobitz, Administrative Assistant; Stephanie Moodry, Floodplain Administrator; and Tanya Lester, Conservation District.

**Open Hearing:** Commissioner Shupak opened the public hearing at 11:00 am to receive public comments on the final adoption of the Floodplain Hazard Management Regulations.

**Overview:** Stephanie Moodry, Floodplain Administrator, explained the reason for the process is because of the new mapping project that has taken place within Stillwater County. She said in 2010, FEMA initiated a project to re-study the Yellowstone River which is resulted in a new map which is a detailed study. She said what we had in the past was a Zone A study which was a defined flood area without any type of base flood elevation defined or any type of floodway established. She said this new study is a detailed study with a floodway and base flood elevation established on it. The second part of the project was to digitize the remaining maps we have existing on our tributaries

within Stillwater County. The only tributary that was re-studied was the Yellowstone River. She said that means shape files were created so we can take and lay those over an aerial. That is a working tool for us to determine where a floodplain area is located. She said it is only a tool because our lines of floodplain are established by elevation. She gave an example, if your home that is built right next to that boundary may be located, it is based on elevation and not because that is where you see it visually on a map. You still have to obtain some surveying data done to establish where that boundary is. Our digital maps are tools to help establish where our floodplain really is on the line, she said.

In 2014, Stephanie Moodry said FEMA release the preliminary maps. Those maps were reviewed by the County and DNRC. A public meeting was held on May 20, 2014, and DNRC presented the adoption process. The public had the opportunity to review those maps and then in August 2014, FEMA placed notification in several papers, (Stillwater County News, Laurel Outlook, and Billings Gazette) that the 90-day appeal process begins. The public had a right to appeal those floodplain maps and we had 6 appeals. FEMA responded to those appeals within 30-days. Following the 30-days, she said we started a 6-month process to adopt the new Floodplain Regulations. She said the regulation we are adopting is the State of Montana 2014 Model. Within that document, the Commissioners and Stephanie Moodry met in June 2015 to discuss to determine whether or not to adopt higher standards within that regulation and the majority of those higher standards were removed. We are here today to adopt that reviewed model of regulations, Moodry said. When asked, Stephanie Moodry confirmed that tributaries that were previously mapped in Stillwater County has been digitized.

**Close Hearing:** Commissioner Davey **MOVED** to accept written comments until October 6, 2015, at 9:00 am at which time the proposed regulations are scheduled for adoption, and to close this portion of the Public Hearing. Commissioner Dell **SECONDED**. Motion passed unanimously.

**Hearing Adjourned:** Commissioner Shupak adjourned the Hearing at 11:10 a.m.

**PUBLIC HEARING  
SEPTEMBER 29, 2015 - 1:30 PM**

**SOUTH GROVE CREEK ROAD PETITION  
FOR PARTIAL ABANDONMENT (Approximately 422 feet)**

**Present:** Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members; Lori Dobitz, Administrative Assistant; Carol Arkell, Rural Addressing; Melissa Ronstrom, District Court Clerk; Justin Peterson, CMG Contractors; Richard Davis, Davis and Sons; Jerry Friend, Treasurer; Mark Schreiner, Road Superintendent; Randy Werdal, Road Foreman; Johanna Kern; Jeff Engel, Contractor; Beverly Hall; Doug Fischer; Dowl; Alban Bassuet, Executive Director; Nate Espeland, Rancher; Karl Gaustad, Absarokee Resident; Mark Kelly, Contractor; Nick Goldman; Jamie Garvin; Hermione Charlton; Greg Mizen, BHR; Clyde Windecker; Averill Keller, Keller Ranch; Clint Teegardin; Linda Halstead-Acharya; Joan Brownell; Rita Westrum; Kathleen Benoit; Corky Skinner; Diane Signoracci; Marty Baxter; Theo Yanzick; Bruce Yanzick; Katie Alt; Lori Eversoll; Doug Enderson, Dowl; Lindsey and Pete Hinmon, Tippet Rise; Benjamin Wynthein,

Tippet Rise; Ryan Addis, Deputy County Attorney; Nancy Rohde, County Attorney; Renee Coppock, Tippet Rise, Crowley-Fleck; Clifford Brophy, Sheriff; Ren Crain, Sheriff's Deputy; and Chip Kem, Undersheriff.

**Open Hearing:** Commissioner Dell opened the hearing with introductions. He said the reason for this hearing is a petition was submitted by Peter Halstead, et al, to abandon a portion of South Grove Creek (County Road #2) located in the S1/2 SE1/4 of Section 13, T4S, R17E, MPM and the N1/2 of Lot 4 of Section 18, T4S, R18E, MPM, beginning at a point on South Grove Creek Road where the NW corner of said Lot 4 meets the NE corner of the S1/2 SE1/4 of Section 13, traversing in a southerly direction to the end of South Grove Creek Road.

He proceeded to read the Viewers/Investigators Report dated September 9, 2015. The Findings of Fact on the report stated the following:

1. The subject road is a portion of South Grove Creek Road (aka County Road No. 2) of the petition submitted by Tippet Rise, LLC, which is located west of Absarokee in T4S, R17E, Sections 13 & 18. The section for abandonment starts at Sec 8 West side and East side of Sec 13 on the section line.
2. The road is being used by Tippet Rise (owners of both sides of the road). The petition for abandonment is for 422 feet. The road is access to the Tippet Rise property. No one else has access off this part of the road.
3. There is no impact to the Road and Bridge Department as the portion of the road petitioned for abandonment ends in the Tippet Rise Property and is 422 feet to their property boundary. The road serves Tippet Rise only.

**Written Comments:** Commissioner Dell said the Commission received four written comments in opposition to the abandonment submitted by the following: Gene Jarussi, Sloane Larson, Martha Baxtar and spouse Clint Teegardin, and Diane Signoracci.

**Tippet Rise (petitioner)** - Alban Bassuet, Executive Director of Tippet Rise, introduced himself and explained that Tippet Rise is an Art Center. We blend art with nature and gave our upmost consideration to preserve the land and keep it as beautiful and pristine as we can. We have seen great changes over the past few years on the weed management project that has really transformed the land from what it was a few years ago. Next year, we are going public with our facility and you will have access to the property. You will be able to appreciate the vistas, the rolling hills, the backdrops and some of the artwork situated on the land.

**Proponents:** Commissioner Dell called for proponents of the abandonment.

The following spoke in favor of the abandonment: **Alban Bassuet, Tippet Rise;** introduced **Pete Hinmon**, Director of Operations Tippet Rise. Mr. Hinmon thanked the County Commissioners and everyone that works for the county, for giving them the opportunity to be here today. He told everyone who came to voice their opinion, it is wonderful, thank you all. He said the petition is to abandon 422 feet of county road. Tippet Rise owns the property on both sides of the proposed

abandonment. We went through the process of seeing how we can improve the road. He said in its current state, it has a poor subgrade with very clay content, and it is on a north facing slope. We have traction issues when the road gets wet. It also has a lot of snow build up due to wind. He then presented a large photo/map of the road and explained some of the difficulties with adverse weather conditions, drainage issues, and line of sight issue with the sharp curve. We would like to adjust the gate where it is currently so we can have a safer access to the property, to prevent cars from stopping and starting on a slope with a 90 degree curve. We hope to address all those issues and we have met with an engineering firm (Dowl). We came to the county to talk about ways we can fix this access. The county suggested possibly abandoning that last section of county road. That would work for the county because they would no longer have to maintain that portion of the road and we would take on the responsibility for that last 422 feet, relieving the county of any liability. This is especially true when we consider all the guests that will be visiting the ranch, you all included, students and kids by bus at times. We want to make sure it will be a straight forward access for everyone, he said.

**Ben Wynthein** stated he is in favor of the petition for agriculture reasons. The question was raised at one point for access for ranching, stating he can not see why anyone other than the two ranchers that currently use the road for that purpose, would need to use the road for ranching. As far as the grade goes, semi trucks have struggled to get through during the spring due to road conditions. He said he has plowed snow there to get cattle trucks through in the past.

**Doug Fisher**, Engineer with Dowl, spoke about the safety and access points of this project from an engineering perspective. From a safety standpoint, one, it has poor site distance, and two, from accessibility perspective, it creates a lot of conflict due to the sharp turn. He showed on the diagram, that if two vehicle were to pass in the area of the curve, specifically, emergency vehicles, school buses, cattle trucks, and other vehicles of this type, you can see it simply does not work. We are also proposing to soften up the curve for all vehicles and install a 18" culvert to help keep things dry. Other proponents were Nate Espeland and Beverly Hall.

**Opponents:** Commissioner Dell called for opponents of the abandonment. The following spoke against the abandonment:

**Diane Signoracci** stated she walks on South Grove Creek Road every day. She also stated she bikes and cross county skis on the road and that her neighbors ride horses on the road. She is asking the commissioners deny the request for abandonment.

**Marty Baxter** said she is speaking on behalf of the three resident neighbors as well as a number of concerned community members. She said one of the many reasons she and her husband moved to the South Grove Creek area was because of the nice isolated rural county road that we were going to use on a daily basis. She said she enjoys hiking, walking, riding horses and cycling on this road unencumbered by traffic the entire length of the road. She said there is a viable solution that would allow them to reconfigure and improve that section of road without an abandonment.

**Jaime Garvin** said he has truly enjoyed that whole little lane. Every now and then you would see a white owl and it was just outside of that 400 feet. Every now and then that gate would be open and

we would take off on top of that perch right at that 90 degree turn, and the views are just spectacular, he said. All we want to do is to leave our little country lane alone, he said.

**Johanna Kern** said she enjoys riding her horse on that road and *why does Tippet Rise need that portion of road with the thousands of acres they already have. People that live in the area still enjoy that road*, she said.

**Mark Kelly** said he was in favor of the abandonment of that portion of road.

**Close Hearing:** Commissioner Dell said further written comments will be accepted until October 5, 2015, at 5:00 p.m. A decision will be made during our regular agenda meeting on Tuesday, October 6, 2015, at 9:00 am. Hearing no further comments, Commissioner Dell closed the hearing closed at 2:23 PM.

**Claims and Warrants:** Claims were examined and warrants ordered drawn in the amount of \$443,460.96 and payroll in the amount of \$393,836.36 for a total of \$837,297.32 for the month ending September 30, 2015.

APPROVED BY: /s/ Dennis Shupak, Commissioner Chairman

ATTEST: Heidi L. Stadel, Clerk and Recorder